

Serial No.: 10/511,168
Atty. Docket No.: P70187US0

REMARKS

The Final Office Action mailed April 2, 2007, has been carefully reviewed and by this Amendment, claim 1 has been amended to correct a typographical error therein. Claims 1-20 remain pending; claims 1 and 14 are independent. In view of the following remarks, favorable reconsideration of this application is respectfully requested.

The Examiner rejected claims 1-20 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,449,971 to Cawood.

As set forth in claim 1, the present invention is directed to a collecting bag for human body wastes including a bag member having at least two outer film blanks with joined edges defining the outer contours of the bag member. In the previous Amendment filed on January 10, 2007 ("the January Amendment"), Applicant amended claim 1 to clarify that *the outer contours of the bag member also define a fluid-retaining area*. Applicant further amended claim 1 to specify that the claimed "substantially tubular inner film elements" are located *within the fluid-retaining area*. Respectfully, this is not shown by Cawood.

In the Examiner's "Response to Arguments" section, she stated for all intents and purposes that Applicant's defining of his own fluid-retaining area as being within the outer contours of

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the bag also effectively defined Cawood's fluid-retaining area. *This ignores the meaning of the words "fluid-retaining area".* Specifically, in the claimed invention, the area that can be used to retain fluid is delimited by the joined edges of the film blanks. This area is not a "fluid-retaining area" because Applicant has given it that name but because it is functionally the area within which fluid is collected. The name "fluid-retaining area" is descriptive of the nature of the defined space.

Cawood also has a fluid-retaining area that is the area in which fluid is collected. This is specifically defined in Cawood as the bag 11 which has "front and rear panels 11a and 11b, respectively joined together along their top, side, and bottom edges 22-24" (see column 2, lines 65-67). The bag, as defined by these panels and edges, is flat when empty (column 2, line 63) and then receives urine conveyed to it via a catheter (column 2, lines 40-41). Hence, the *fluid-retaining area* has to correspond with the area delimited by the panels 11a, 11b and the top, side and bottom edges 22-24. This is the only area in which fluid is retained.

Cawood subsequently states that "[p]ortions 24a of the bag's lower edge 24 slope downwardly and inwardly to direct fluid towards the centrally-disposed drain tube 34" (column 4, lines 26-28) (emphasis added). Clearly, the urine held in the bag is

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contained in the area above the "bag's lower edge 24", i.e., in the fluid-retaining area. Cawood then goes on to describe how a pocket 37 may be formed *below the lower edge 24* through an extension of one lower side portion of the bag. This pocket is *not*, however, *within the fluid-retaining area of the bag.*

In defining the fluid-retaining area in the manner set forth in claim 1, Applicant has stated only that *in his invention*, the outer contours of the bag correspond with the boundaries of the area within which fluid is held. In doing so, Applicant has not coined a phrase intended to encompass more than what the language would denote. Rather, Applicant has distinguished over Cawood by specifying that *in his invention* the outer contours also define the actual fluid-retaining area while, in Cawood, the outer contours in fact do *not* define the actual fluid-retaining area.

Accordingly, Applicant requests reconsideration of the Examiner's conclusion that the tube 37 is *in* the fluid-retaining area of Cawood when it clearly is not. Again, the fluid-retaining area is where fluid is retained. No fluid is retained in tube 37. To the contrary, tube 37 as defined in Cawood is separately sealed *below and outside* of the fluid-retaining area. The fact that Applicant has stated that *in his invention* the outer contours of the bag correspond with the limits of the fluid-retaining area,

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when in fact they functionally do, does not support the conclusion that the outer contours of another invention can also by default be said to define the fluid-retaining area of that other invention, when this is clearly not the case and ignores the plain meaning of the words.

For at least the foregoing reasons, claims 1 and 14 are patentable over the prior art. Like claim 1, claim 14 also defines the bag member as having two outer film blanks with joined edges that define outer contours of the bag as well as the fluid-retaining area. In addition, claim 14 further defines over Cawood by specifying that the tubular inner film elements are "enclosed within" the bag member *in the fluid-retaining area*. In no way can the pocket 37 of Cawood be said to be enclosed in this manner.

Further, claim 14 sets forth that the first and second substantially tubular inner film elements, as enclosed within the fluid-retaining area, are situated on either side of a dividing line that is substantially parallel with the longitudinal direction defined by the discharge portion, and that each substantially tubular inner film element is in the area of the bag member situated *near the discharge portion*. This is not shown by Cawood. On the contrary, the tube 29 is situated at the top of the bag, opposite the discharge portion, and necessarily so given the

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incoming fluid flow function of tube 29. Again, favorable reconsideration and allowance of claims 1 and 14 as patentable over the prior art is requested.

Claims 2-13 and 15-20 are also in condition for allowance as claims properly dependent on an allowable base claim and for the subject matter contained therein.

With this Amendment, it is respectfully submitted that the present application is in condition for allowance. In addition, as no new issues are raised and as this amendment places the application into condition for allowance, entry thereof is proper after final. Accordingly, entry thereof and allowance of the application is requested.

Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By J. C. Bailey Jr., 40,495
Harvey B. Jacobson, Jr.
Reg. No. 20,851

400 Seventh Street, NW
Washington, D.C. 20004-2201
Telephone: (202) 638-6666
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HBJ/SCB
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